

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 RIVERFRONT LANDING PHASE II  
OWNERS' ASSOCIATION,

10 Plaintiff,

11 v.

12 ASSURANCE COMPANY OF  
AMERICA,

13 Defendant/Third-Party  
14 Plaintiff,

15 v.

16 WESTERN HERITAGE INSURANCE  
COMPANY,

17 Third-Party Defendant.  
18

Case No. C08-0656RSL

ORDER AWARDING  
ATTORNEY'S FEES


19  
20 On February 23, 2009, the Court issued an order (Dkt. #61, the "Order") denying  
21 as moot a motion to stay discovery filed by defendant Assurance Company of America  
22 ("defendant"). The Court granted plaintiff's request for an award of attorney's fees  
23 pursuant to Federal Rule of Civil Procedure 37(a)(5). The Court found that the filing of  
24 the motion was not substantially justified because defense counsel failed to satisfy the  
25 meet and confer requirement prior to filing the motion. The Order noted that plaintiff's

26 ORDER AWARDING  
ATTORNEY'S FEES - 1

1 counsel's declaration stated that he spent "at least 11.8 hours (a) coordinating the  
2 scheduling of these depositions with Mr. Sparling and my staff and (b) preparing the  
3 Association's response to' defendant's motion." Order at p. 3 (quoting Hyde Decl. at ¶  
4 18). The Order explained that plaintiff is not entitled to fees for the time counsel spent  
5 scheduling the depositions because counsel would have had to schedule the depositions  
6 anyway, and those efforts are not time spent "opposing the motion." Fed. R. Civ. P.  
7 37(a)(5)(B).

8 At the Court's request, plaintiff's counsel has filed a declaration stating he spent at  
9 least 9.2 hours researching and drafting plaintiff's response to the motion and the  
10 supporting documents. Counsel's typical hourly rates vary between \$250 and \$295 per  
11 hour in the matters that he bills hourly. Given that the issues presented by the motion  
12 were not complex, the Court will use the lower end of the range. Therefore, the Court  
13 awards \$2,300 in attorney's fees pursuant to Federal Rule of Civil Procedure 37(a)(5).  
14 The Court finds that the total amount and the underlying hourly rate are reasonable.  
15 Defendant must remit that amount to plaintiff's counsel within thirty days of the date of  
16 this order.

17  
18 DATED this 9th day of March, 2009.

19  
20  
21   
22 Robert S. Lasnik  
23 United States District Judge  
24  
25